op I IX 4

*revious References* 1943 ( MC ) MC File No 88-43

MC 23-41 (49-5-1) Serial Nos 9, 10, 54 + 5-5-

*ıte) References*

# GENERAL AND REVENUE SECRETARIAT

*ɔrial Nos* 4

**Part B for** ~~Feb~~ 44

**SUBJECT**

Execution of the gift deed in respect of the land granted to the Roman Catholic Mission in Mysore for the construction of a school building at the place

To The Chairman CDT Blys

~ 7248 of 18/1/44

Issues certain instructions

Letter No B3-C454/42-43 Dy 23-8-43 from the Chairman, City Impt Board, City seeking to be intimated whether a rate of Rupee 1 or Rs 2/- per sq yard is to be taken for the purpose of calculating the Value of the site for fixing up the value of stamp paper required for executing the deed etc.,

1) It is stated that if the Value of the land is fixed at Rupee one per sq yard the Mysore authorities will have to pay Rs 187-80 or Rs 375/- if it is fixed at Rs 2 per sq yard

2) Submit for orders with the Connected files

An enquiry may be made of the Chairman, City Impt Board, Mysore as to whether the agreement will have to be written on a stamped paper or not, in respect of such free grants on the part, stamped agreements have been obtained if not, what necessity there is for enquiring at this late stage

3) Submit with a draft letter for approval

Lawrence for 7/9/43

4) Cir 7-9-43

5) Issued 7/9/43

SECT DEPT 2333 7/9/43 GOVT OF MYSORE

3 SEP 1942 GEN & REV SECTT

WD 1140—GPB—50 000—5-11-42

To The Chairman T. Bd, Mysore
no L 3188 & 11-9-43
Calls for some information
Letter no BB c 454/42-43 dy 25-9-43
from the chairman, city Improvement
Trust Board, Mysore, furnishing the information
It is reported that the Ml Advocate
has no concern with the Trust Board
& that he was not consulted, & that if
consulted he would demand fees etc
It is also stated that in 2 other
cases, the stamped agreements
were executed in accordance with
the opinion of the Govt Pleader.
The opinion already furnished
by the Govt Pleader is flagged "Q"
The Chairman requests orders
of Govt in the matter
14/10 In the present case orders are
awaited whether the gift deed should be got
registered on a stamped paper
is for orders, in view of the facts
explained by the Pet represented by
Law Agent for
14 x 4.
11-9-43
Ans
16-9-43
11 11 43

JUSA
18/9
JAL

MYSORE 1943

19 Submd The Law section will be consulted in the matter

VLKB 9/11 13 A dft reply may be put up accepting the orders in the previous page to the effect that the Sale Deed should be executed on a stamp paper the value of the land may for the purpose of computing the stamp fee, be taken at Re one per sq yd

for 9/11/43

14 Submd with a draft letter for appl.

SECT L 4 SEPT 13 TO MYSORE

VLKB 9/11 15 A in the note above for the disp letter is for appl

Lawley for 9/11/43

16 please sanction

9-11-43

17) There is a case in which the legal opinion of the Govt Pleaders has been asked for

18) The valuation must be on the fair market value of the land as regards the nature of the document the executed the Re Law Section will put up a note

10 11 43

Law Sy 0743 / 2 11 43

17) Asst Leg Law section for 10/11/43

By 10/11/43

21) The approved draft agreement in the case flagged Z. The Govt Pleader dilsore who was consulted in the matter is of opinion that it is safer to execute the agreement on Stamp paper (vide Copy of letter flagged "R" He suggests that the value was he fixed for the land given over to the Mission and the agreement executed on a Stamp paper, Calculating the stamp fee at the rate of Rs 6-4-0 for every five hundred rupees of the value of the said land

"1) Submitted for orders (A copy of the Stamp Act is also

Kaula 21/12 21/12

") The 1 & any Govt Counsel

Law Secy 3 23/12

") The 23-12-43

176 R 412 43 Forwarded with my note compliment to Dno 476 The Advocate General for Mysore for favour 4/B 27 12 43

of opinion

Govt

23/12/43 Law Secy

21) I have perused with care the opinion expressed by the learned Govt, Pleader, Mysore, (Flagged R) re stamp duty, but I am unable to subscribe to his view that the document requires payment of the (entire) stamp duty by the "Grantee On the one hand, by no stretch of the language of S 29 Cl (c) of the Stamp Act - which clause relates to a conveyance - could the document be brought under that clause and, on the other hand, the document clearly

U O No 58/43 dt 31 12 43

clearly falls under Art 31 under the category of Gift' which 'in essence' it is (It may be pertinent to note in this connection that, in the draft prepared by th Govt Pleader, the claimant is referred to as "Donee In my opinion, where S 29 is silent with respect to a particular kind of document as to the party who is to bear the stamp duty inasmuch as S 62(1)(b) makes it an offence to execute any document liable to stamp duty without its being duly stamped the only reasonable rule to apply is that the executant should bear the duty and if there are more ~~than one~~ executants they should bear the duty in proportion to their interests if in the property dealt with by the document this proportion is clear from the document itself if not, by all the executants in equal shares (I have not been able to find any decided case on the point) Hence the stamp duty on the document (under Art 31 of the Stamp Act) has to be borne by the Grantor and Grantee in equal shares, and as the Grantor is Government and as such exempt from payment of stamp duty under S 3 proviso 1 of the Act the Grantee should pay half the stamp duty and this fact should be stated at the end of the draft as it now stands (flagged Z) as below -

'Inasmuch as there is no understanding between the executants of this document (which falls under Art 31 of the Stamp Act) the executants have (as ~~admitted~~ advised by the Law Officers of Govt ) to bear the stamp duty in equal shares and, inasmuch as one of the executants is Govt and is exempt from payment of stamp duty, the other executant has paid his half share of the stamp duty and the document is stamped accordingly and is thus duly ~~stamped~~ stamped" cl Grade A C 31/12/43

A

CSN/31 12 43

8/12/43

96) Subd for orders
UKS 3/1/44

VI) The chairman C.I.T. Board has solicited orders of Govt whether a rate of Re 1/- or Rs 2/- per sq yd may be taken for the purpose of calculating the value of the site granted to the Roman Catholic Mission, free of cost, for the ~~purpose of~~ fixing up the value of the stamp paper required. It is for orders if he may be informed that the valuation must be based on the real market value of the sited land

VII) The chairman, Trust Board will also be requested to include the para refd to at A supra in the document, before registration

For orders

Refce paras 17 & 18 supra

Law Secy) for
6/1/44

Yes
10-1-44

Approved

Subd with a draft letter for appl.
UKS 11/1

Issue
11/1/44

55 To the chairman, C.I.T. Bd, Mysore
No L. 7248 dt 18-1-44
Issues instructions in the matter

6438 GOVT MYSORE

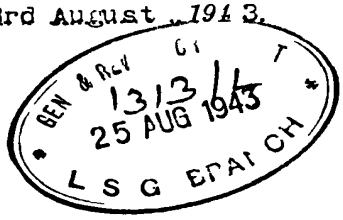
No B3 C-454/42-43

Enc one

88-43-9

**Office of the Chairman**
**City Improvement Trust Board Mysore**

*Dated* 23rd August 1943.




FROM

B S RAGHAVENDR RAO, Esq , M A , (Hons ),
THE CHAIRMAN,
*City Improvement Trust Board,*
*Mysore*

To

C Narayanaswamy Naidu, Esq, , B A , B L ,
Secretary to the Government of His Highness the
Maharaja of Mysore, Law Department, Bangalore

Sir,

Subject - Re Deed to be executed in respect of land given to the Roman Catholic Mission in Mysore, for the construction of a school building free of cost

---

With reference to your letter No L 323/11 23-41-51 dated 8th July 1943 forwarding a revised copy of the deed to be executed by the - Mission, I have the honour to forward herewith a copy of the letter of the Government Pleader dated 1st January 1943 and to state that the -- Government Pleader in his letter No G P 381 dated 1st January 1943 has opined that it is safer to give a value to the site and execute the -- deed on stamp paper of value calculated at Rs 6-4-0 for every five -- hundred of the value of the plot of land and that this money will have to be paid by the Donee In this connection, I wish to invite kind - reference to para 5 of this office letter No 3138 dated 6th April 1942 and to request that orders of Government may kindly be obtained as to whether a rate of Re 1/- or Rs 2/- per sq yd , is to be taken for the - purpose of calculating the value of the site for fixing up the value of stamp paper required If this value is fixed the Mission authorities will have to pay a stamp fee of Rs 187-8-0 or Rs 375-0-0

I have the honour to be,

Sir,

Your most obedient servant,

B S Raghavendra Rao

Chairman 23/8

HRS

Letter No G P 381/42-43 dated 1st January 1943 from the Government Pleader, Mysore, to the Chairman, City Improvement Trust Board, Mysore

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With reference to letter No B3 C-454/42-43 dated 8th December 1942 of the Trust Board Engineer, I have the honour to enclose herewith a draft of the deed to be entered into - between you on behalf of the Government and Rev Father F - Audiau on behalf of the Roman Catholic Mission, Mysore

Even now it is not clear to me whether the plot of - land belongs to the Government or to the City Improvement Trust Board In the letter of the Engineer under reference it is stated that the land belonged to the Trust Board I do not know if the Government has taken back the land from the - Trust Board Under Section 24 of the City of Mysore Improvement Act the Government of Mysore may transfer to and vest in the Board ~~xx~~ any land belonging to the Government or to the - Municipal Council and the Government have also power to refuse lands not already conveyed or agreed to be conveyed to the - Board I do not know if in this case the land had once belonged to the Trust Board, whether it has been resumed by the Government and whether the Government have powers to so resume In case you are satisfied that the land belongs to the Government then the deed may be executed as drafted by me if the -- draft meets with your approval I think it is better you get an authorisation from the Government to execute the deed on - behalf of the Government, because according to your present official designation you are the President of the City Municipal Council and Chairman of the City Improvement Trust Board

I have introduced the last clause to the effect that 'Donee' includes assigns, transferees etc , so that if there - should be any chance of the Roman Catholic Mission transferring the property to any other body or persons, such transferees may also be bound by the terms of the deed In the case of the - Lond Mission and the Wesleyan Mission I think the two have now united and are together now called the Methodist Mission I do not know if there could be any similar union of the Roman Catholi

P T O

Mission with any other Mission It is to provide for such - contingencies that I have added that clause

According to the Stamp Act, it is only in cases whether the Government would be liable to pay stamp duty that deeds are exempted from payment of stamps if executed by or in favour of the Government In Section 29 of the Stamp Act mention is made of the persons liable to pay stamp duty in the case of various - types of documents A gift deed is not specifically mentioned in that section If the gift deed can come under clause (c) - then the stamp duty has to be paid by the grantee in which case this document cannot be exempt from stamp duty Of course, -- Section 29 mentions the various parties liable to pay stamp duty only in the absence of an agreement to the contrary The exemption mentioned in Section 3 of the Stamp Act speaks (in the proviso) of the liability of Government to pay stamp duty, except - for the exemption mentioned in that section I think it is safer to give a value to the site and execute the deed on stamp paper of value calculated at Rs 6-4-0 for every five hundred of the value of the plot of land, and this money for stamps will have to be paid by the Donee according to Section 29 ~~xxxxxxxxxx~~ (c) of the Stamp Act The schedule of the plot of land will have to be given mentioning - the boundaries and the area I herewith return the file of papers sent for reference

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" Copy "

B. Visvesvaraya

Chairman

HRS

Appendix F G —1]

SUBJECT

Section ml

File No 88- 43

Serial No 10

*Diary No of letter replied to*

No L 3188

To

General and Revenue Secretariat

( )

*the* *194*

The Chairman, C.D.B., Mysore

Date of issue 11/9

Sirs

With reference to your letter No B3 C 454/42-43 dt 23-8-43 re the deed to be executed in respect of the land granted to the Roman Catholic Mission in Mysore, for the construction of a school building, free of cost, I am directed to request you to be so good as to state if you have consulted as already suggested the Municipal Advocate as to whether the agreement in question requires to be written on a stamped paper & whether, in

Signed by

List of enclosures

Copied by 9/9/43

Examined by

WD 04161—GPB—60 000—24 10 41

respect of such free Grants of lands in the past, stamped agreements have been obtained or not, what necessity there is for enforcing it in this case

I have etc

from E. L. Ag 7/7
Asst Secy to Govt
WB 7/9 Law Dept

No B3 C 454/42-43 88-43-54

**Office of the Chairman**
**City Improvement Trust Board Mysore**

*Dated* 25th Septr 1943

GEN & REV SECR TABLET 2119/45 1 OCT 1945 L S G BRANCH

FROM

B. S RAGHAVENDRA RAO, Esq , B A , (Hons ),
THE CHAIRMAN
*City Improvement Trust Board*
*Mysore*

GOVT LAW DEPT GOVT OF MYSORE 1943

To

Rayanaswamy Naidu, Esq , B A , B L ,
Secretary to the Government of His Highness the
Maharaja of Mysore, Law Department, Bangalore

Sir,

With reference to your letter No L 318E/11 88-43-10 dated 11th September 1943 re the sale deed to be executed in respect of the land granted to Roman Catholic Mission in Mysore, I have the honour to state that as usual in the Trust Board in such cases the Government Pleader was consulted and his opinion has already been intimated to you The Municipal Advocate has no concern in the matters relating to the Trust Board and so he was not consulted and moreover he is not bound to furnish any opinion in the matters relating to the Trust Board and if consulted he may require payment Instructions are therefore solicited if he is to be consulted

2 There are two ~~new~~ recent instances in the Trust Board for the free grant of land to private institutions viz , Mathru Mandali in Vanivilaspuram and Parankusa Seva Samathy and in both these cases stamped agreements were executed in accordance with the opinion of the Government Pleader in the interest of the institutions themselves

3 I therefore request that orders of Government in the matter may kindly be obtained and communicated at an early date

I have the honour to be,
Sir,
Your most obedient servant,

B Raghavendra Rao
Chairman 26/9

HRS

Appendix F G —1]

SUBJECT

Section Ml
File No 88-43
Serial No 55

*Diary No of letter replied to*

No L7248

To

General and Revenue Secretariat

( )

*the* *194*

The Chairman,
C I T Bd., Mysore

Sir,

Date of issue 18/1

I am the order ending with reference to your letter No B3 c454/42-43 dt 25 & 43 ~~23-8-43~~ re the execution of ~~the~~ deed in respect of the land granted, free of cost, to the Roman Catholic Mission in Mysore, for the construction of a school building, I am directed to state that the Valuation must be based on the real market value

Signed by

List of enclosures

Copied by C. y-

(for the purposes of registration of the deed)

Examined by...

(Further it may be necessary to ascertain the ~~same~~ land in question for ~~purposes of~~ ~~the~~ ~~value of the Stamp Duty~~ I am to add that this is a

(further)

WD 04161—G1 B—60 000—24 10 41

Para as noted in the margin* may be kindly included at the end in the revised ~~draft agreement~~ copy of the draft sent to you with this office letter No L 323/ml23-41-51 Dy 8/7-43, before registration

* DS
x Kindly type the portion marked "A" in Para 25 of the notes

I have etc

for

Secretary to Govt